

Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 7, 1998

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR98-1587

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116362.

The City of Austin (the “city”) received a request for records concerning reproductive services at Brackenridge Hospital. You state that some of the responsive records have been provided to the requestor, but that some of the records at issue are protected from disclosure. You submitted to this office for review the documents that you contend are excepted from disclosure pursuant to sections 552.101, 552.107, and 552.111 of the Government Code.

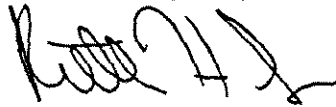
Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by constitutional or common-law privacy and under certain circumstances excepts from disclosure private facts about individuals. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information must be withheld from public disclosure under a common-law right of privacy when the information is (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. You redacted the names of patients from some records. You contend that the submitted documents must be de-identified to protect the common-law privacy interests of these particular patients. We agree.

You also marked records that you contend are protected under sections 552.107(1) and 552.111 of the Government Code. Section 552.107(1) protects from disclosure information within the attorney-client privilege. *See* Open Records Decision No. 574 (1990). Section 552.111 excepts from disclosure inter-agency or intra-agency

communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body. *See Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); Open Records Decision No. 615 (1993) at 5. We agree that the drafts you marked as protected under sections 552.107(1) are protected from disclosure as they reflect the attorneys' advice, opinion, and recommendation, and client confidences disclosed to the attorneys. We also agree that the preliminary drafts that you marked as protected under section 552.111 may be withheld from disclosure, since these drafts concern policy-making issues and they represent the advice, opinion, and recommendation of the drafters as to the form and content of the final documents. We have marked the other information at issue that may be withheld from disclosure under sections 552.107(1) and 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116362

Enclosures: Submitted documents

cc: Mr. Mark Cronewett
Attorney at Law
1717 Main Street, Suite 4050, LB 39
Dallas, Texas 75201
(w/o enclosures)